ORDINANCE NO. 9 - Series 1991

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF ELGIN, UNION COUNTY, OREGON, GENERAL OBLIGATION SEWER BONDS IN THE PRINCIPAL SUM OF $300,000 TO FARMERS HOME ADMINISTRATION FOR THE PURPOSE OF PROVIDING A PORTION OF THE COSTS OF IMPROVEMENTS TO THE SEWER SYSTEM WITHIN THE BOUNDARIES OF UNION COUNTY, OREGON; PROVIDING FOR THE FORM AND TERMS OF SAID BONDS, AUTHORIZING THE PAYMENT OF SAME, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Elgin, Union County, Oregon (the "City"), has been duly authorized by a majority vote at an election held March 28, 1989, to issue General Obligation Sewer Bonds (the "Bonds") in an amount not to exceed the sum of $300,000, in excess of any existing bond issue, for the improvements to the municipal sewer system within the Union County, Oregon, hereinafter called the "Project," and,

WHEREAS, the City has been directed to proceed in accordance with law to issue the Bonds, and concurrently therewith and subsequent thereto the City has commenced negotiations with the Farmers Home Administration of the United States Department of Agriculture, hereinafter called "Government," for financial assistance to construct said Project, and,

WHEREAS, said Government has indicated a desire to consider said financial assistance and as a result, it is necessary to cause the execution and delivery of installment bonds or other evidence of indebtedness to secure any loan or loans made, or insured, by the Government and to comply with any requirements, terms, and conditions prescribed by the Government or by Government regulations and to execute contracts or enter into agreements and to take any and all other action as may be necessary, incidental, or appropriate to finance, construct, complete, equip, extend, or improve the Project for and on behalf of the City;

NOW THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. It is necessary to defray a portion of the costs of constructing and equipping the Project by obtaining a loan made by the Government in accordance with the applicable provisions of the Rural Development Act of 1972, it being determined by the Government that the City is unable to

obtain sufficient credit elsewhere to finance the Project taking into consideration prevailing private and cooperative rates and terms concurrently available.

Section 2. That the City borrow $300,000 and issue as evidence thereof a General Obligation Sewer Bond for the full principal amount of the loan. The Bond shall be dated with the date of delivery thereof, and shall be in substantially the following form:

[Reserve for Bond Form]

Section 3. The unobligated net revenues of the sewer system, after payment of the ordinary operation and maintenance expense thereof, hereby are pledged to the payment of the principal of and interest upon said Bond.

The City Council of said City, each year, shall include in the General Tax Levy of the City a special levy sufficient with other moneys available therefor, to pay promptly when due, the principal and interest upon said Bond.

The funds derived from such sources shall be carried by the Recorder of the City in a separate book account to be designated the City of Elgin Sewer Bond Fund and shall be expended only in the payment of the principal of and interest on said City's Bond until all of said obligations and any that may be issued to refund them have been fully paid and redeemed or until the provisions for the payment or redemption thereof has been made.

Section 4. The City shall be the custodian of all funds of the Project and all funds shall be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The City shall execute a Fidelity Bond in an amount not less than $40,000— with a surety company approved by the Government and the United States of America, acting through the Government, shall be named as co-obligee in such bond, and the amount thereof shall not be reduced without the prior written consent of Government. The City is hereby directed to establish the following accounts into which the current funds of the Project Bond proceeds, the revenues from the Project and other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the Bonds hereby authorized remain unpaid.

a. Construction Account. The proceeds of the Bonds hereby authorized and any interim financing acquired shall be deposited in the Construction Account. Amounts in the Construction Account exceeding $100,000 shall either be secured by the depository bank in advance in accordance with state and federal law or deposited in the Oregon Local Government Investment Pool. Withdrawal from the Construction Account shall be made only on checks signed by the City as authorized by the City Council, countersigned by the Mayor or other authorized City official and only for the purposes for which said Bonds were signed as specified in the estimate of costs. The City's share of any liquidated damages and other moneys paid by defaulting contractors of their sureties will be deposited in the Construction Account to assure completion of the Project. When the construction of the Project has been completed or all construction costs have been paid for in full, any balance remaining in the Construction Account shall be used to pay outstanding installments on the Bond in inverse order without premiums. The Construction Account shall then be closed.

b. Revenue Account. As soon as the Project becomes revenue producing, the gross revenues shall be set aside into a separate account to be designated the Revenue Account, and moneys so deposited therein shall be expended and used only in the manner and order as follows:

1. Operation and Maintenance Account (bookkeeping account). There shall be set aside and deposited each month, before any other expenditures therefrom, a sufficient portion of the moneys in the Revenue Account to pay the reasonable and necessary current expenses of operating and maintaining the Project for the current month.

2. Debt Service Account (bookkeeping account). After the transfer required in item 1 above, there shall be transferred each month from the Revenue Account, before any other expenditures or transfer therefrom, and deposited in the Debt Service Account for payment of the annual installment of the Bond, a sum equal to at least one-twelfth of the annual installment becoming due on the next succeeding _____ day of _____. If the City for any reason shall fail to make such monthly deposit, then an amount equal to the deficiency shall be set apart and deposited in the Debt Service Account out of the gross revenues in the ensuing month or months, which amount shall be in addition to the regular monthly deposit required during each succeeding month or months.

Whenever there shall accumulate in the Debt Service Account amounts in excess of the requirements during the next 12 months for paying principal and interest on outstanding Bond installments, and in the Operation and Maintenance Account and the Reserve Account hereinafter established amounts in excess of the requirements thereof, such excess may be used by the City to make prepayments on the Bond.

3. Reserve Account (bookkeeping account). Out of the balance of income and revenue in the Revenue Account remaining after the transfers required in items 1 and 2 above have been made, there shall be set aside and deposited in the Reserve Account the sum of $1,994 annually until there is accumulated in that fund the sum of $19,941, after which no further deposits need be made into said account except to replace withdrawals. The Reserve Account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the Project which may be caused by any unforeseen catastrophe and when necessary for the purpose of

making payments of principal and interest on the Bonds hereby authorized in the event the amount of the Debt Service Account is insufficient to meet such payments. Approval by Government is required prior to the use of the Reserve Account funds. Whenever disbursements are made from said account, said deposits shall be resumed until there is again accumulated the amount of $19,941, at which time deposits may be again discontinued.

Section 5. The City covenants and agrees that so long as the Bond hereby authorized remains unpaid;

a. It will indemnify the Government for any payments made or losses suffered by the Government as a result of or in connection with the Project.

b. It will comply with applicable state laws and regulations and continually operate and maintain the Project in good condition.

c. It will impose and collect such rates and charges for use of the Project that gross revenues will be sufficient at all times to provide for the operation and maintenance thereof and the payments on the Bonds hereby authorized and the maintenance of the various funds herein created; that all use of the Project shall be subject to the full rates prescribed in the rules and regulations of the City; and that no free use of the Project will be permitted.

d. It will maintain complete books and records relating to the operation of the Project and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report prepared, and will furnish Government, without request, a copy of each annual audit report. At all reasonable times Government shall have the right to inspect the Project and the records, account, and data of the City relating thereto.

e. It will maintain such insurance coverage as may be required by Government.

f. It will not borrow money from any source or enter into any contract or agreement or incur any other liabilities in connection with making extensions or improvements to the Project exclusive of normal maintenance without obtaining the prior written consent of the Government.

g. It will not dispose of or transfer its title to the Project or any part thereof, including lands and interest in lands, by sale, mortgage, lease, or other encumbrance, without obtaining prior written consent of Government.

h. It will cause to be levied and collected such assessments as may be necessary to operate and maintain the

Project in good condition and meet payments on the Bonds when the same become due if, for any reason, gross revenues are insufficient.

i. It will comply with all federal laws and regulations to maintain the tax exempt status of Bond interest from federal income taxation and Oregon personal income taxation.

Section 6. If at any time it shall appear to the Government that the City is able to refinance the amount of the Bond then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the City will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

Section 7. The Mayor and the Recorder of the City are hereby authorized and directed to execute for and on behalf of the City Form FmHA 400-1 entitled "Equal Opportunity Agreement," Form FmHA 400-4, entitled "Assurance Agreement," as required by the provisions of Title VI of the Civil Rights Act of 1964, and Form FmHA 1942-47, "Loan Resolution".

Section 8. The City Council desires and deems it necessary and advisable for the immediate preservation of the health, peace, and safety of the City that this Ordinance become effective at once, for the reason that the sewer facilities of said City are inadequate to meet its needs and plans for the new construction and improvements must be commenced at once in order to be ready for use as soon as possible and, therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

Passed by the City Council the 16 day of December, 1991.

CITY OF ELGIN, OREGON

By Rodney O. Spiker
Mayor

ATTEST:

Recorder 12/16/91